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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,279	01/25/2005	Michael John Dalgleish	108347-00038	5105
4372	7590	12/01/2008		
ARENT FOX LLP 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036				
EXAMINER				
LOUIE, WAE LENNY				
ART UNIT		PAPER NUMBER		
3661				
NOTIFICATION DATE		DELIVERY MODE		
12/01/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com  
IPMatters@arentfox.com  
Patent\_Mail@arentfox.com

# Office Action Summary

## Application No.

10/520,279

## Applicant(s)

DALGLEISH, MICHAEL JOHN

## Examiner

WAE LOUIE

## Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/25/2005, 8/8/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

Claim 23 is canceled from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 08/08/2008.

Claims 1-22, 24-25 are currently pending.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 21-22, 24-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant's claim of "measuring a parameter" is quite broad and fails to distinctly claim the subject matter.

***Claim Rejections - 35 USC § 103***

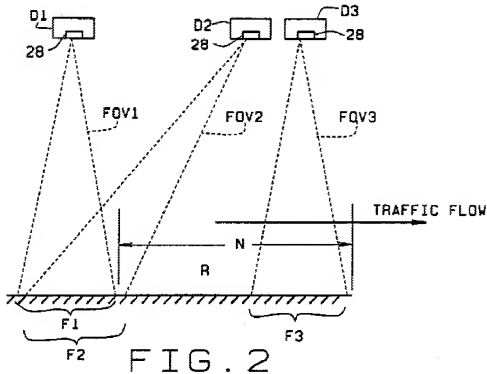
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 13-18, 20-22, 24-25 rejected under 35 U.S.C. 103(a) as being unpatentable over Waldman et al (6,275,171).

Regarding applicant claims 1-3, 20-22, 24 and 25, Waldman discloses a roadside traffic monitoring system comprising a primary sensor for measuring a parameter of vehicles passing a measurement point; a secondary sensor for measuring the same parameter of vehicles as they pass the measurement point, the secondary sensor able to measure the parameter (col.3, lines 30-55, "employs a pair of silicon photodetectors or photosensors D1 and D2 and D3"); a conditions sensor for determining when the predetermined conditions are met; and verification means for comparing the parameter as measured by the primary sensor with the parameter as measured by the secondary sensor if the predetermined conditions are met (col. 4, lines 21-47, "setting a threshold").

Waldman is silent concerning the secondary sensor measuring a parameter at a higher level of accuracy than the primary sensor under predetermined conditions however Waldman does disclose that the "cells of detectors of D1 and D3 are identical as is the cell of detector D2; except for the LOS angle which nominally defines a footprint F2 of this detector generally coincident or overlapping with a footprint of F1 of detector D1 as shown in Fig. 2" (col.4, lines 14-20).



Even though the sensors of Waldman are the same, because of the LOS angle of D2, D3 has a higher level of accuracy as stated above. It would have been obvious to one of ordinary skill in the art to have secondary sensors that are more accurate since this is clearly a design choice and would have provided a better accuracy in detecting vehicle parameters.

Regarding applicant claims 4-6, Waldman discloses the traffic monitoring system but is silent concerning the primary sensor as a loop sensor and video detection system. It would have been obvious to one of ordinary skill in the art since loop sensors and video detection systems are old and well known in traffic monitoring and it would have been a matter of design choice to incorporate them in Waldman.

Regarding applicant claims 13-18, Waldman discloses the traffic monitoring system arranged to determine an uncertainty in the primary sensor from a comparison of the parameter as measured by the secondary sensor with the parameter as measured by the primary sensor (col. 13, lines 1-35, "first pair of detectors used to measure the speed; second pair of detectors used to identify shadows so to eliminate shadow effects."

Claims 7-11, 12, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waldman et al (6,275,171) in view of Bergan et al (6,204,778).

Regarding applicant claims 7-11, Waldman discloses the roadside traffic monitoring system but is silent concerning the measured parameter is the speed of vehicles. Bergan et al uses electro-acoustic sensor arrays that determine the speed of vehicles used for traffic monitoring (abstract). Bergan uses the similar technique of a primary and secondary sensor array over a space of road to detect the speed of vehicle. It would have been obvious to one of ordinary skill in the art to interchange the sensors of Waldman with Bergan since they produce the similar result of monitoring traffic with the only difference being the parameter.

Regarding applicant claims 12 and 19, Bergan discloses wherein the measured parameter is vehicle density or number (col.16, lines 49-55, "traffic volume, line occupancy, per vehicle speed and vehicle classification").

Any inquiry concerning this communication or earlier communications from the examiner should be directed to WAE LOUIE whose telephone number is (571)272-5195. The examiner can normally be reached on M-F 0700-1530.

Art Unit: 3661

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wae Lenny Louie/  
Examiner, Art Unit 3661

/Thomas G. Black/  
Supervisory Patent Examiner, Art Unit 3661